

DOCKET NO: 230257US0

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
Nathalie Jager-Lezer : GROUP ART UNIT: 1615  
SERIAL NO: 10/664,894 :  
FILED: SEPTEMBER 22, 2003 : EXAMINER: VENKAT, JYOTHSNA  
FOR: COSMETIC COMPOSITION :  
COMPRISING FIBRES :

DECLARATION UNDER 37 C.F.R. 1.132

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

I, Nathalie JAGER-LEZER, hereby declare:

1. I am employed by L'ORÉAL as an engineer and have experience working with cosmetic compositions containing fibers.
2. Attached at Tab A are photographs of (a) polyamide fibers (polyamide 6-6, 0.9 DTex, 3 mm), commercially available from Paul Bonte; and (b) polyimide-amide fibers (Kermel Tech, 2 mm) commercially available from Rhodia. Both types of fibers were added to the identical cosmetic base compositions. As can be seen from the first photograph, the polyamide fibers from Paul Bonte formed curved, non-linear structures. In contrast, the polyimide-amide fibers formed substantially linear structures. These photographs demonstrate that the polyamide fibers are flexible, not rigid and substantially rectilinear, whereas the polyimide-amide fibers are rigid and substantially rectilinear.
3. Also, the mascara of example 1 of the present application was prepared. A comparative example substantially identical to example 1 was also prepared. The only

difference between example 1 and the comparative example was that example 1 contained 1 g of the polyimide-amide fibers discussed in paragraph 2 above, whereas the comparative example contained 1 g of 3 mm Nylon polyamide fibers.

4. Each composition was observed between a slide and a leaf using a Navitar microscope (5\*0.5, full field vision). On each fiber, the angle formed between the tangent to the central longitudinal axis of the fiber at one of the ends of the fiber and the straight line connecting said end to the point on the central longitudinal axis of the fiber corresponding to half the length of the fiber was measured. Also, the angle formed between the tangent to the central longitudinal axis of the fiber at a point halfway along the fiber and the straight line connecting one of the ends to the point on the central longitudinal axis of the fiber corresponding to half the length of the fiber was measured. The measurements were taken three times, and the average of the measurements was calculated. Set forth below are the results of the measurements.

Composition	Average value of the measured angles	Number of fibers (%) having and average angle value of less than or equal to 15°
Example 1	3.7°	100%
Comparative example	33.4°	0%

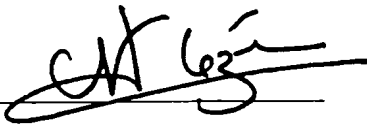
These results further demonstrate that the polyamide fibers are flexible, not rigid and substantially rectilinear as required by the claims in the present application, whereas the polyimide-amide fibers are rigid and substantially rectilinear.

5. The undersigned petitioner declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believe to be true; and further that these statements were made with the knowledge that willful false

statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

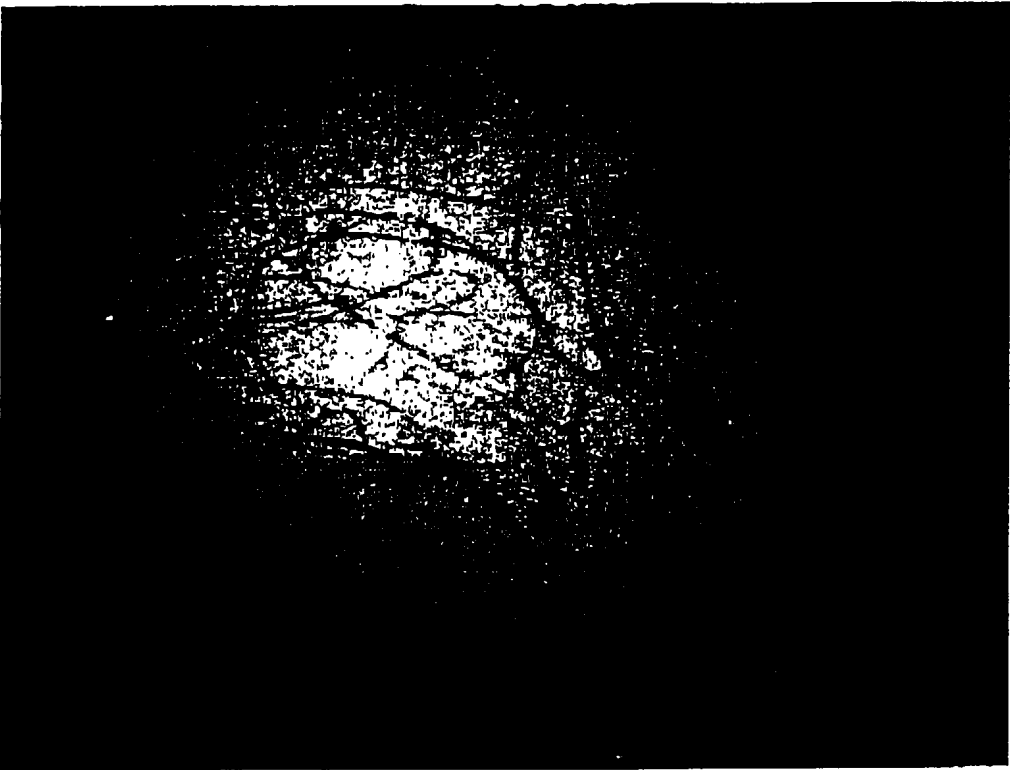
6. Further deponent sayeth not.

JAGER-LEZER Nkhalié  
Name

  
Signature

15 February 2006  
Date

Nylon fibers (polyamide 6,6,  
0,9D Tex, 3 mm of Paul Bonte)



Polyimide-amide fibers  
(Kermel Tech, 2 mm of Rhodia)



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SIR:

I, Nathalie Jager-Lezer, hereby declare:

1. I am employed by L'ORÉAL as an engineer and have experience working with cosmetic compositions containing fibers.
2. Attached at Tab A are diagrams exemplifying the difference between using flexible fibers in a mascara and using rigid, substantially rectilinear fibers in a mascara. The two diagrams on the left relate to using flexible fibers. The two diagrams on the right relate to using rigid, substantially rectilinear fibers. As can be seen from these diagrams, particularly the two bottom diagrams, flexible fibers and rigid, substantially rectilinear fibers act differently on eyelashes. The flexible fibers curl owing to their flexible nature, meaning that the eyelashes also curl. Such eyelashes are unattractive, having a curled and non-lengthened appearance. In contrast, rigid, substantially rectilinear fibers do not curl. Rather, these fibers remain rigid owing to their rigid nature. When these fibers are applied to eyelashes, the result is an attractive, perceptibly lengthened eyelash.

3. Tab B contains six pictures of eyelashes to which rigid, substantially rectilinear fibers have been applied. These six pictures demonstrate that the rigid fibers provide eyelashes with an attractive, perceptibly lengthened effect, an effect resulting primarily from the fibers being in line with the eyelashes (see, the two bottom photographs on page 2 of Tab B).

4. Tab C contains four photographs. The top two photographs are of a mascara containing polyimide-amide fibers (Kermel Tech, 3 mm) commercially available from Rhodia applied to false eyelashes. Both photographs demonstrate that the rigid Kermel fibers provide eyelashes with an attractive, perceptibly lengthened effect.

5. The bottom two photographs of Tab C depict a comparison between a composition containing 1% flexible polyamide fiber (3 mm, LEIF 751 fibers from Pierret)(“Comparative Composition”) and a substantially identical composition containing 1% rigid, substantially rectilinear polyamide fiber (3 mm, Nomex fibers from DuPont)(“Invention Composition”). The photograph on the left is of the mascara composition containing flexible fibers applied to false eyelashes. The photograph on the right is of the mascara composition containing rigid, substantially rectilinear fibers applied to false eyelashes. The photographs clearly demonstrate that the mascara containing flexible fibers results in eyelashes which are curled and unattractive, whereas the mascara containing rigid, substantially rectilinear fibers results in attractive, perceptibly lengthened eyelashes, an effect resulting primarily from the fibers being in line with the eyelashes. Given that the fibers in both compositions were polyamide fibers, the difference in lengthening effects observed resulted from the rigidity/flexibility of the fibers, not chemical differences between the fibers. Thus, rigidity, not chemical nature, of the fibers is an important factor in achieving the observed lengthening effect.

6. It was surprising and unexpected that using the Invention Composition containing rigid, substantially rectilinear fibers and the Comparative Composition containing flexible

fibers had vastly different properties upon application to eyelashes given the similarities of these two compositions.

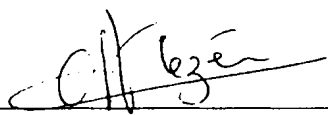
7. The improved properties of the Invention Composition are representative of the present invention. That is, I would expect a composition comprising rigid, substantially rectilinear polymeric fibers in a physiologically acceptable medium, wherein the polymer is selected from the group consisting of polyurethanes, polyesters, acrylic polymers, polyolefins, non-aromatic polyamides, aromatic polyimide-amides, and mixtures thereof, and wherein at least 50%, in numerical terms, of the fibers are such that the angle formed between the tangent to the central longitudinal axis of the fiber at one of the ends of the fiber and the straight line connecting said end to the point on the central longitudinal axis of the fiber corresponding to half the length of the fiber, is less than or equal to  $15^{\circ}$ , and the angle formed between the tangent to the central longitudinal axis of the fiber at a point halfway along the fiber and the straight line connecting one of the ends to the point on the central longitudinal axis of the fiber corresponding to half the length of the fiber, is less than or equal to  $15^{\circ}$ , for the same length of fiber ranging from 0.8 mm to 5 mm, to possess improved lengthening properties like those of the Invention Composition in this declaration. I have no reason to expect otherwise.

8. The fact that mascaras containing rigid, substantially rectilinear fibers of the present invention provide an attractive, perceptibly lengthened effect to mascaras is commercially significant. Eyelash lengthening is a very desirable property for a mascara product to have: the better the eyelash lengthening properties of a mascara, the more desirable the mascara will be to many consumers.

9. The undersigned petitioner declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believe to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

10. Further deponent sayeth not.

Nathalie Jager-Lézer  
Name

  
Signature

30 Septembre 2008  
Date



TAB A

## LENGTHENING - FIBERS WAY

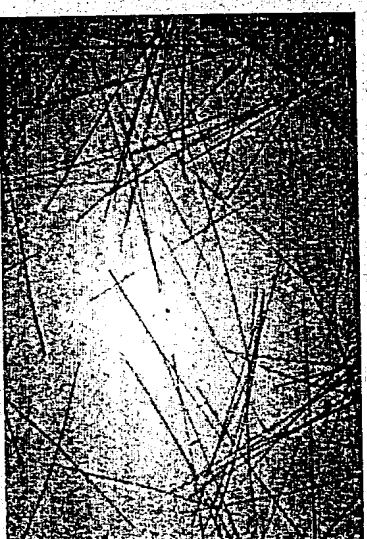
HOW ??

By a judicious selection of the fiber technology

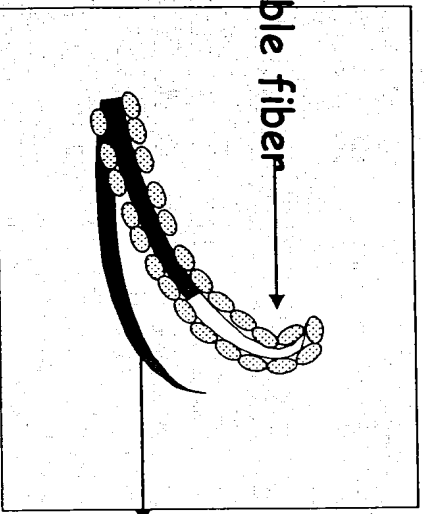
Flexible fiber technology



Rigid fiber technology

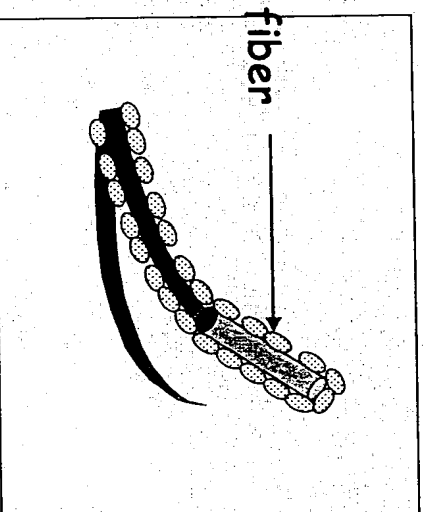


Flexible fiber



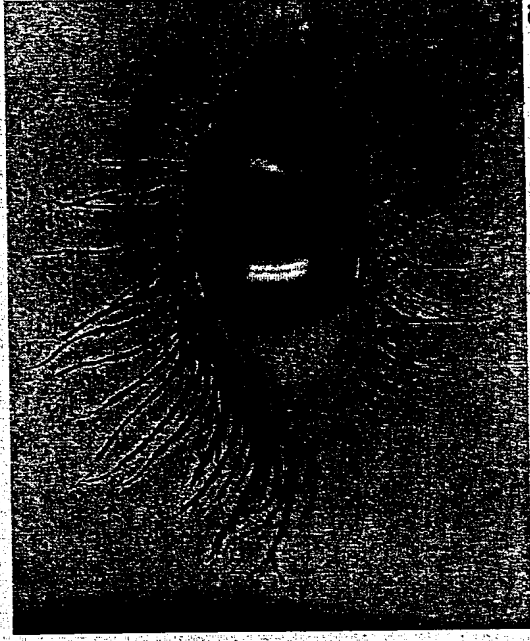
nude lash

Rigid fiber

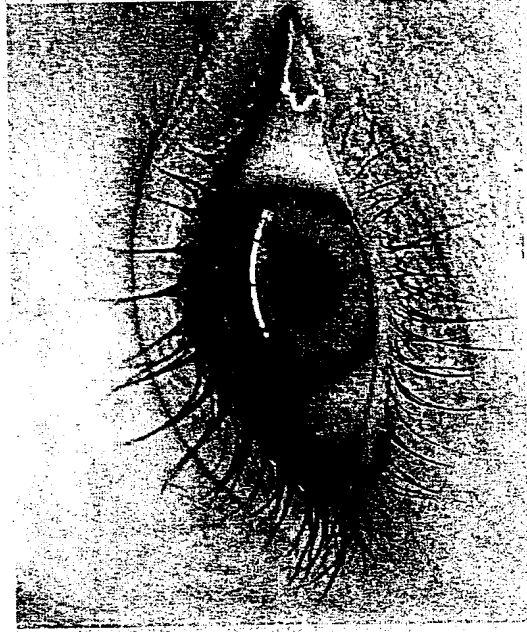


TAB B

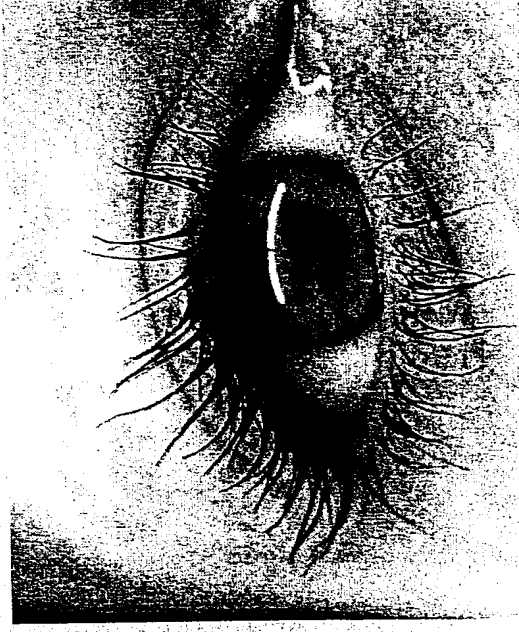
## Résultat maquillage



3ème génération mascara-fibre

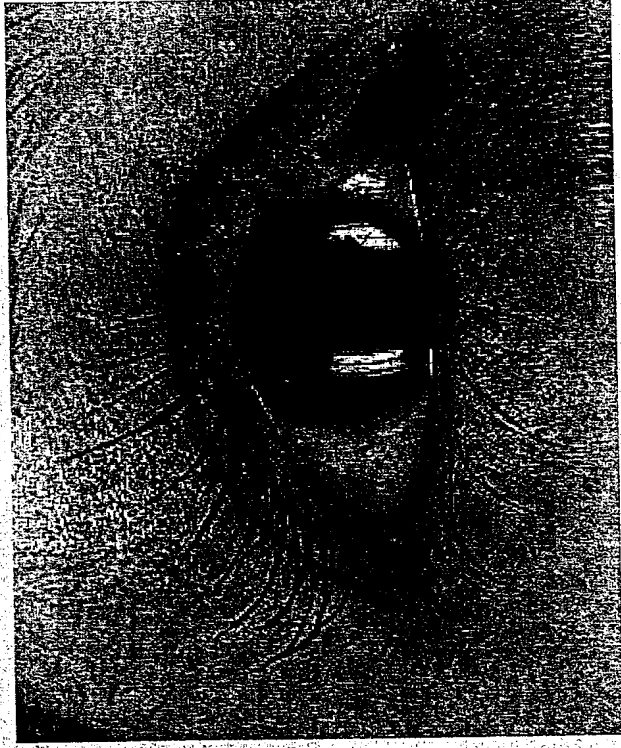


Deux seize, Kose



Visee good curl mascara  
long lash, Kose

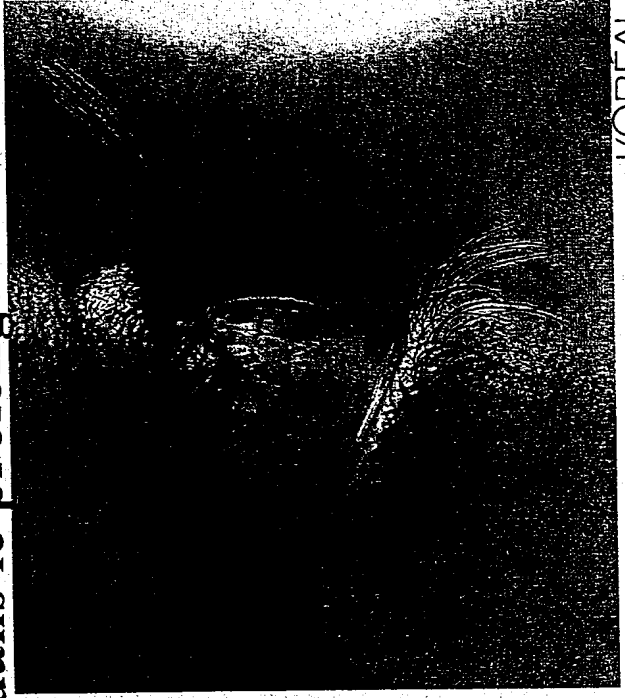
# Œil maquillé avec la maquette mascara-fibre



Accroche des fibres ...

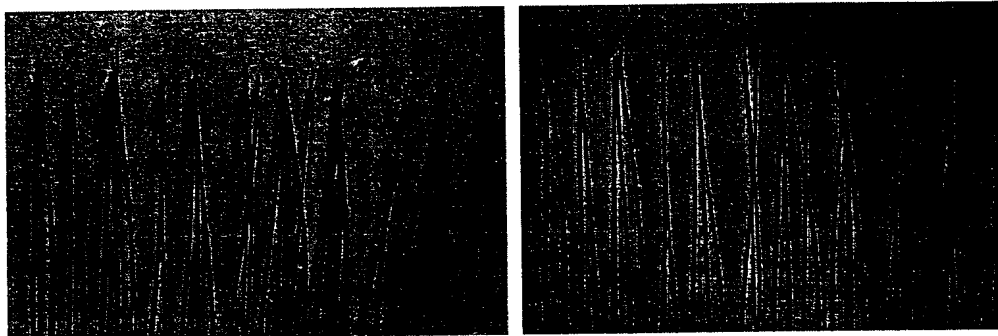


...dans le prolongement des cils



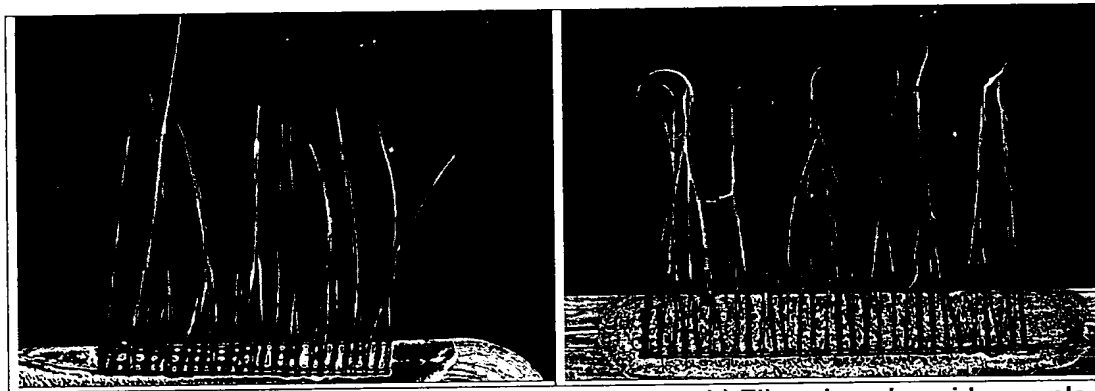
TAB C

## Comparaison Maquillage fibre Rigide vs Souple



Mascara avec fibre rigide Kermel 3mm (Rhodia)

La figure 14 illustre les résultats obtenus in vivo, en comparant de la fibre Nomex et LEIF.



a) Fibre de polyamide rigide

b) Fibre de polyamide souple

Eprouvettes de faux cils maquillées avec une base blanche de mascara contenant 1% de fibres de Polyamide 3mm Rigide (a, Fibre Nomex®, Dupont)) et souples LEIF 751 (b, Pierret)